

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

KEN PAXTON, in his official capacity as §  
Attorney General of Texas, §  
DAVID SCHNITZ, §  
TRACY MARTIN, and §  
FLOICE ALLEN, §  
*Plaintiffs,* §

vs. §

Civil Action No. 4:22-cv-00143-P

STEVEN M. DETTELBACH, in his §  
Official Capacity as Director, Bureau of §  
Alcohol, Tobacco, Firearms and Explosives, §  
and §  
MERRICK B. GARLAND, in his §  
Official Capacity as Attorney General §  
of the United States, §  
*Defendants.* §

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PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION TO DISMISS  
PLAINTIFFS' SECOND AMENDED COMPLAINT

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Plaintiffs Ken Paxton, in his official capacity as Attorney General of Texas, David Schnitz, Tracy Martin, and Floice Allen file this Response to Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint.

As set forth more fully in the brief filed in support of this response, Defendant's motion to dismiss Plaintiffs' Second Amended Complaint should be denied because (I) the Court has jurisdiction under the *Enochs* exception to the AIA because the challenged requirements cause irreparable harm and violate the Second Amendment under *Bruen* (responding to Defendants' argument A.2.); (II) Defendants' AIA defense does not apply to Counts I, III, or IV, or to Count

II in the case of a rejected application, because those counts do not challenge the assessment or collection of taxes (responding to Defendants' argument A.1.); and (III) Texas has standing, but the Court need not decide that issue because Defendants do not dispute that the other Plaintiffs have standing.

For the reasons discussed here and in Plaintiffs' brief in support, the Court should deny Defendant's Motion to Dismiss Plaintiffs' Second Amended Complaint.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

We certify that a true and accurate copy of the foregoing document was filed electronically  
(via CM/ECF) on August 16, 2022.

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